

REMARKS**INTRODUCTION:**

In accordance with the foregoing, claims 1, 11, 24, and 25 have been amended. No new matter is being presented, and approval and entry are respectfully requested. Therefore, claims 1, 3, 6-16, 18-22, 24, and 25 are pending and reconsideration is respectfully requested.

ENTRY OF AMENDMENT UNDER 37 C.F.R. §1.116:

Applicants request entry of this Rule 116 Response because it is believed that the amendments of claims 1, 11, 24, and 25 place this application into condition for allowance and because these amendments should not entail any further search by the Examiner since the Examiner should have understood that the newly recited subject matter has been within the scope of the application. It is further noted that since the newly recited subject matter has been within the scope of the application, no substantially new matter has been entered and no substantially new issues have been raised. Lastly, it is noted that these amendments at least place the application into better form for appeal.

The Manual of Patent Examining Procedures sets forth in Section 714.12 that "any amendment that would place the case either in condition for allowance or in better form for appeal may be entered." Moreover, Section 714.13 sets forth that "the Proposed Amendment should be given sufficient consideration to determine whether the claims are in condition for allowance and/or whether the issues on appeal are simplified." The Manual of Patent Examining Procedures further articulates that the reason for any non-entry should be explained expressly in the Advisory Action.

NO NEW MATTER HAS BEEN ADDED:

In accordance with the April 4, 2005 request of the Examiner that applicants explain how the amendments discussed herein are supported in the specification, applicants provide the following explanation.

Initially, applicants note that the newly recited subject matter includes amendments that improve the form of the claims for purposes of appeal. These amendments correct informal issues in the claims and are clearly supported by the specification.

The substantive amendments of claim 1 specify that each zone has an *initial recording capacity to which an arbitrary recording capacity is added* as needed for each zone, that an arbitrary area at an inner and/or outer circumferences in each zone includes a *coupling area separate from a user data recording area to provide the arbitrary recording capacity as needed*

to each zone, and that during recording of the user data, in each zone a *zone start pattern and/or zone end pattern is additionally recorded at a position that is based on a size of the arbitrary recording capacity*. Support for the recitation of the addition of the coupling area is found in paragraph [0016]. While applicants acknowledge that the specification stipulates that the physical distinction between the data recording area and the coupling area is not essential, *see the specification at paragraph [0017]*, at no point in the specification is such a distinction prohibited. Support for the recitation of the zone start pattern and/or zone end pattern being additionally recorded at a position that is based on a size of the arbitrary recording capacity is found in paragraph [0022] in which the specification explains that the start and/or end patterns have positions which can be different from the beginning and/or end of the zones. Since this difference is absorbed by the coupling area, a statement that the amount of added arbitrary recording capacity from the coupling area determines positions of the start/end patterns is accurate.

Regarding the substantive amendments of claims 11, 24, and 25, it is noted that these amendments find support in similar portions of the specification as those discussed above.

REJECTION UNDER 35 U.S.C. §102:

Claims 1, 3, 8-16, 18-22, and 24-25 stand rejected under 35 USC § 102(b) as anticipated by Aoki (Japanese Publication No. 2000-195060, based on a computer generated English translation from the Japanese Patent Office). This rejection is respectfully traversed for at least substantially all of the reasons as set forth in the Response filed on October 12, 2004, these reasons being incorporated in their entirety herein by reference, and for the additional reasons as set forth below.

Regarding the rejection of claim 1, applicants note that according to claim 1, each zone has an initial recording capacity to which an arbitrary recording capacity is added as needed for each zone, an arbitrary area at an inner and/or outer circumferences in each zone includes a coupling area separate from a user data recording area to provide the arbitrary recording capacity as needed to each zone, and during recording of the user data, in each zone a zone start pattern and/or zone end pattern is additionally recorded at a position that is based on a size of the arbitrary recording capacity.

As such, according to claim 1, in the claimed invention, since each zone is structured to have an arbitrary recording capacity added to the data recording capacity needed for each zone, data recording and reproduction can be accurately performed. In addition, since a coupling area

is provided in embodiments of the present invention, when the data recording position changes in each zone, the coupling area can compensate for any positional error. Similarly, since an arbitrary pattern is recorded in the coupling area in embodiments of the present invention, when data is recorded over a plurality of zones, an overwrite action can be continuously performed without interruption.

Aoki, on the other hand, is directed to providing an optical disk that is suitable for handling a large capacity of images and sound data in a physical format which easily secures a mutual exchangeability with an optical disk specializing in reproduction. Hence, Aoki is directed to an entirely different area of technology than the claimed invention. Thus, it can be seen that Aoki is completely silent as to several of the claimed features.

For example, regarding the recitation of the coupling area, it is noted that although the Office Action interprets the ID area in Aoki as corresponding to the claimed "coupling" area, applicants assert that this interpretation is mistaken. In fact, the ID area of Aoki does not appear to be performing any coupling operation. Rather, the ID area appears to merely be a header of a corresponding zone.

It follows then that the recitation of zone start pattern and/or zone end pattern being additionally recorded *at a position that is based on a size of the arbitrary recording capacity that is provided by the coupling area* cannot possibly be taught by the reference. Indeed, while applicants acknowledge the existence of a border between the ID area and the Data area in Aoki, see Aoki at FIG. 7, applicants respectfully assert that Aoki contains no disclosure that this border can have varying positions. Moreover, since it appears as though the size of the ID area is constant, given that Aoki only discloses that this area operates as a header for the Data area, applicants note that a position of the border is almost certainly constant relative to each Aoki zone. Concurrently, a suggestion that Aoki discloses changing the position of the border based on a size of the arbitrary recording capacity being added to the initial recording capacity of the zone, as claimed in claim 1, appears to be impossible.

Thus, applicants respectfully assert that claim 1 is patentably distinguished from the reference to Aoki. Therefore, it is believed that the rejection of claim 1 is overcome and that the claim is allowable.

Regarding the rejections of claims 11, 24 and 25, it is noted that these claims are allowable for substantially similar reasons as set forth above. Thus, applicants respectfully assert that these claims are also patentably distinguished from the reference to Aoki. Therefore,

it is believed that the rejections of these claims are overcome and that the claims are also allowable.

Regarding the rejections of claims 3, 8-10, 12-16, and 18-22, it is noted that these claims depend from claims 1, 11, 24, and 25, and are therefore allowable for at least similar reasons as set forth above.

REJECTION UNDER 35 U.S.C. §103:

Claims 6 and 7 stand rejected under 35 USC § 103(a) as being obvious over Aoki, in view of Maeda (U.S. Patent No. 6,028,828). This rejection is respectfully traversed. It is respectfully submitted that Maeda at least fails to disclose the deficient features of Aoki, as well as any suggestion for the same. Accordingly, it is respectfully submitted that neither Aoki nor Maeda disclose or suggest the presently claimed invention, alone or in combination. Therefore, for at least the above, it is respectfully requested that this rejection be withdrawn and claims 6 and 7 be allowed.

CONCLUSION:

In accordance with the foregoing, it is respectfully submitted that all outstanding objections and rejections have been overcome and/or rendered moot. And further, that all pending claims patentably distinguish over the prior art. Thus, there being no further outstanding objections or rejections, the application is submitted as being in condition for allowance which action is earnestly solicited. At a minimum, this Amendment should be entered at least for purposes of Appeal as it either clarifies and/or narrows the issues for consideration by the Board.

If the Examiner has any remaining issues to be addressed, it is believed that prosecution can be expedited and possibly concluded by the Examiner contacting the undersigned attorney for a telephone interview to discuss any such remaining issues.

If there are any additional fees associated with the filing of this Response, please charge the same to our Deposit Account No. 503333.

Respectfully submitted,

STEIN, MCEWEN & BUI LLP

By: 

Howard I. Levy
Registration No. 55,378

1400 Eye Street, NW, Suite 300
Washington, D.C. 20005
Telephone: (202) 216-9505
Facsimile: (202) 216-9510

Date: 6/24/2005